

44.4 Joint Representation.

(a) Notice of Proposed Joint Representation.

An attorney who intends to represent two or more persons or entities in the same criminal matter must file a motion to permit joint representation. The motion must include:

- (1) the attorney’s certification that, after careful investigation of potential conflicts of interest, it is clear that no actual conflict exists or is foreseeable; and
- (2) a written certification signed by each defendant to be represented stating that the defendant knowingly and voluntarily waives the right to separate representation, consents to joint representation and, when applicable, waives the attorney/client privilege.

(b) Government’s Response.

The government must respond to the motion within 14 days.

(c) Hearing.

A hearing must be held on a motion to allow joint representation under Federal Rule of Criminal Procedure 44(c). The hearing may be held ex parte. Each party subject to or affected by the proposed joint representation must attend the hearing.

(d) Court Ruling.

Even if the parties affected consent to joint representation, the court must deny joint representation if a conflict of interest exists or where joint representation would be contrary to the interests of justice.

(e) Continuing Duty.

If after review of the evidence, representations, and arguments, the court allows joint representation, and then a potential conflict of interest is discovered or arises, the party aware of the potential conflict must promptly notify the court and all other attorneys in the case.

(f) Court’s Responsibility.

Nebraska Criminal Rule 44.4(a) through (e) assists the court by obligating the parties to promptly advise the court of any issue of joint representation.

Subparagraphs (a) through (e), however, do not limit or replace the court's responsibility and authority under Federal Rule of Criminal Procedure 44(c)(2).